

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BAYOU INSPECTION SERVICES, INC.
AI # 30587

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

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* Enforcement Tracking No.
* RE-P-02-0055A
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* Docket No. 2004-3224-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between Bayou Inspection Services, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I.

Respondent is a corporation who operates an inspection service facility located at 318 DeGravelle Road in Amelia, St. Mary Parish, Louisiana ("the Facility").

II

On December 15, 2003, the Department issued a Penalty Assessment, Enforcement No. RE-P-02-0055, in the amount of Thirty Thousand Eight Hundred Eighty-Five And 77/100 Dollars (\$30,885.77) to Respondent, which was based upon the following findings of fact:

The Respondent is in possession of sealed sources in Louisiana under the provisions of Louisiana License Number LA-7112-L01 issued by the Department.

The Respondent was issued the following enforcement actions, Notice of Violation and Potential Penalty RE-NP-98-0200, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-99-00120, Consolidated Compliance Order and Notice of Potential Penalty E-CN-00-0234, and Consolidated Compliance Order and Notice of Potential Penalty RE-CN-01-0136 for several violations of the Radiation Protection Regulations.

The following violations were noted:

A. The Respondent's refresher training records for his radiographers did not meet the criteria of the material to be covered in the refresher training requirements, in violation of LAC 33:XV.320.A.2 and Paragraph 8.4(c) of the Bayou Inspection Services, Inc. Operating and Emergency Procedures.

1. On September 17, 1998, an inspection conducted at the Amelia, Louisiana facility revealed the above-mentioned violation. Specifically, periodic refresher training was not being conducted. On November 30, 1998, Notice of Violation and Potential Penalty RE-NP-98-0200 was issued to the Respondent based on the findings of the inspection.
2. On August 24, 2000, an inspection at the Amelia, Louisiana facility revealed the above mentioned violation. Specifically, Mr. B. Bruno, Mr. C. Lacassin, Mr. D. LeDoux, Mr. M. Robertson, and Mr. J. Rentrop's refresher training records did not meet the criteria of the material to be covered in the refresher training requirements. On

April 30, 2001, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-00-0234 was issued to the Respondent based on the findings of the inspection.

B. The Respondent's radiography crew left the temporary job site and failed to physically secure the radiographic exposure device, in violation of LAC 33:XV.542.A. specifically, on March 19, 1999, an inspection of the Respondent's radiography crew performing radiography located at Bayou Pipe Coating, Double Joint Shop in New Iberia, Louisiana revealed the radiographic camera was left in a pipe unattended while the radiography crew returned to the Respondent's New Iberia office to retrieve more film. On June 18, 1999, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-99-0120 was issued to the Respondent based on the findings of the inspection.

C. The Respondent failed to maintain records of certification, in violation of LAC 33:XV.575.B. Specifically, on August 24, 2000, an inspection of the Respondent's Gonzales, Louisiana facility revealed Mr. LeDoux's Industrial Radiographer Certificate (Texas 005018) card expired on July 31, 1999. On April 30, 2001, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-00-0234 was issued to the Respondent based on the findings of the inspection.

D. The Respondent failed to perform internal audits on Mr. C. Lacassin, Mr. D. LeDoux, and Mr. M. Robertson for the first quarter of the year 2000 to ensure that the Radiation Protection Regulations, Louisiana radioactive material license conditions, and the licensee's operating and emergency procedures are followed by each radiographer quarterly, in violation of LAC 33:XV.575.C. Specifically, on August 24, 2000, an inspection of the Respondent's Gonzales,

Louisiana facility revealed the above mentioned violation. On April 30, 2001, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-00-0234 was issued to the Respondent.

E. The Respondent failed to provide at a minimum a qualified two-person crew as specified in LAC 33:XV.575.D, in violation of LC 33:XV.575.D (2001 Radiation Protection Regulations Edition).

1. On September 17, 1998, an inspection of the Respondent's facility located in Amelia, Louisiana revealed Mr. I. Bunker and Mr. I. Mathews were performing radiography at a temporary job site without written confirmation from the division allowing them to work as a radiographer trainee. On November 30, 1998, Notice of Violation and Potential Penalty RE-NP-98-0200 was issued to the Respondent based on the findings of the inspection. This is a repeat violation from an inspection conducted on March 5, 1997.
2. On March 19, 1999, an inspection of the Respondent's radiography crew located at Bayou Pipe Coating, Double Joint Shop in New Iberia, Louisiana revealed the above mentioned violation. Specifically, Mr. M. Robertson was performing radiography at a temporary job site without proper confirmation from the division. On June 18, 1999, Consolidated Compliance Order and Notice of Potential, RE-CN-99-0120 was issued to the Respondent based on the findings of the inspection.

3. On July 20, 2000, an inspection of the Respondent's field crew performing radiography at Performance Contractors in Baton Rouge, Louisiana and on February 22, 2001, an inspection of the Respondent's field crew located at Sunland Fabricators in Prairieville, Louisiana revealed the above-mentioned violation. Specifically, Mr. Orona and Mr. Allen Lacassin did not have on their person at a temporary job site a letter of confirmation from the division allowing the individual to work as a radiographer trainee. Mr. M. Robertson's trainee status expired on March 30, 2000, and he continued to work as a radiographer trainee after this date. On April 30, 2001, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-00-0234 was issued to the Respondent based on the findings of this inspection.

F. The Respondent's field team member performed radiographic operations at a job site without a calibrated pocket dosimeter, serial number 9012542, in violation of LAC 33:XV.590.A.3. Specifically, on July 20, 2000, an inspection of the Respondent's field team performing radiography at Performance Contractors in Baton Rouge, Louisiana revealed the above-mentioned violation. On April 30, 2001, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-00-0234 was issued to the Respondent based on the findings of the inspection.

G. The Respondent's team member performed radiographic operations at a job site without a calibrated alarm ratemeter, serial number 16512, in violation of LAC 33:XV.590.A.4. Specifically, on July 20, 2000, an inspection of the Respondent's field team performing

radiography at Performance Contractors in Baton Rouge, Louisiana revealed the above-mentioned violation. On April 30, 2001, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-00-0234 was issued to the Respondent based on the findings of the inspection.

H. The Respondent allowed its employees to exceed the occupational annual dose limit of 5000 mR, in violation of LAC 33:XV.410.A.1.a. Specifically, on November 13, 2001, and December 10, 2001, inspections of the Respondent's facility located in Amelia, Louisiana revealed Mr. Tezeno accrued an annual exposure of 5072 mR for the year 2000. For the months of January 2001 through November 2001, Mr. Tezeno accrued an annual exposure of 5136 mR, Mr. D. Edmond accrued an annual exposure of 5095 mR, and Mr. D. Duthu accrued an annual exposure of 5200 mR. On July 23, 2002, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-01-0136 was issued to the Respondent based on the findings of the inspection.

I. The Respondent allowed a radiographer trainee, Mr. Crochet, to operate controls without direct supervision of a radiographer instructor, in violation of LAC 33:XV.590.D. Specifically, on May 2, 2001, an inspection of the Respondent's field team performing radiography at CEI Fabricators, Frontage Road by the Sunshine Bridge in Donaldsonville, Louisiana revealed the above-mentioned violation. On July 23, 2002, Consolidated Compliance Order and Notice of Potential Penalty RE-CN-01-0136 was issued to the Respondent based on the findings of the inspection.

On February 9, 2004, an Amended Penalty Assessment, Enforcement No. RE-P-02-0055A, was issued to the Respondent amending the Assessment Portion of The Penalty to read as follows:

“A penalty in the amount of \$20,285.77 is hereby assessed together with legal interest as allowed by law and all costs of bringing and prosecuting this enforcement action accruing after the date of issuance.”

III

In response to the Amended Penalty Assessment, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIFTEEN THOUSAND TWO HUNDRED FOURTEEN AND 33/100 DOLLARS (\$15,214.33) of which One Thousand Fifty-five and 77/100 Dollars (\$1055.77) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Amended Penalty Assessment, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-

referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Mary Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

BAYOU INSPECTION SERVICES, INC.

BY: Willie Tezend
(Signature)

WILLIE TEZEND
(Printed or Typed)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 8th day of
JULY, 20 05, at AMELIA, LA.

David M. Patterson
NOTARY PUBLIC (ID # 65603)

DAVID M. PATTERSON
(Printed or Typed)

STATE OF LOUISIANA

Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 10th day of
November, 20 05, at Baton Rouge, Louisiana.

Paula S. Beard
NOTARY PUBLIC (ID # 82771)

Paula S. Beard
(Printed or Typed)

Approved: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary